

## **SHELBY COUNTY APPRAISAL REVIEW BOARD POLICIES AND PROCEDURES**

The Appraisal Review Board is responsible for the local administrative review of appraisal records.

### **SELECTION**

The Shelby County Appraisal District Board of Directors appoints members of the Appraisal Review Board.

### **ELIGIBILITY**

To serve on the Appraisal Review Board an individual must be a resident of the appraisal district and must have resided in the district for at least two (2) years. There are no special qualifications, but a person may not serve who is:

- a current or former appraisal district director,
- a current or former employee or chief appraiser of the appraisal district,
- a current or former employee or officer of a taxing unit served by the appraisal district, or
- a current employee or officer of the Comptroller of Public Accounts.

### **TERM**

Members serve two-year, staggered terms. No individual may serve for more than three consecutive terms.

### **COMPENSATION**

Appraisal Review Board members receive a per diem and mileage as provided by the annual appraisal district budget.

### **DUTIES AND RESPONSIBILITIES**

The Appraisal Review Board is responsible by statute for the review of appraisal records and the hearing and determination of taxpayer protest and taxing unit's challenges.

### **PROCEDURES FOR DISABLED AND NON-ENGLISH SPEAKING PERSONS**

If a person who does not speak English or who communicates by sign language, and the person is unable to provide his/her own interpreter, he/she should notify the chief appraiser in writing at least two business days prior to the date of his/her hearing, or earlier if possible. Upon receiving notice, the chief appraiser shall arrange to have an interpreter at the hearing. If the chief appraiser cannot arrange to have an interpreter present, he shall inform the ARB of the request and the ARB shall postpone the hearing date.

If a person has a disability that prevents him from entering the appraisal district's office or the room where the hearings are held, or that otherwise prevents him from having access to the ARB, he should notify the chief appraiser in writing at least two business days prior to the hearing date or earlier, if possible. The notice should describe the person's disability and how it prevents the person from having access to the ARB. Upon receiving such notice, the ARB shall determine whether the person can be given access (1) by some temporary modification of the appraisal district's office that is practicable and safe under the circumstances; (2) by means of some other assistance from the employees of the district that is practicable and safe under the circumstances; or (3) by having the ARB relocate to some other room or part of the appraisal district's office.

### **PROCEDURES FOR TELEPHONE CONFERENCE HEARING**

#### ***SCHEDULING***

The board shall schedule telephone conference hearings at the same time and day as the regular hearings. If you choose to appear by telephone conference, you must provide written notice at least 10 days before the hearing. A property owner who has requested a telephone conference hearing may also appear in person.

### *TELEPHONE CALL*

Property owners shall be responsible for calling in on the scheduled date and time to commence the hearing. When the property owner calls in, their name and telephone number will be placed on the sign-in sheet along with the property owners appearing in person. The ARB will call you back when it is time for your hearing. The hearings will be heard on a first come basis. The ARB will make every effort to convene the hearing as close as possible to the scheduled time. If a property owner waits more than (2) hours to have their protest heard after the original scheduled conference call-in time, the property owner is entitled to reschedule the hearing.

### *FAILURE TO CALL IN ON TIME*

If the property owner fails to call in on time or if the ARB is unable to reach the property owner, the ARB may proceed to hear the protest by considering the affidavit provided by the property owner to offer the evidence for the hearing. Alternatively, based on the circumstances at hand, the ARB may move on to the next protest, and consider the affidavit at a later time. If there is no affidavit on file, the protest should be dismissed as a 'no-show'. Property owners who have requested a telephone conference call may elect to appear in person.

### *EVIDENCE*

The property owner's affidavit and evidence must be submitted to the ARB before the hearing begins. The chief appraiser is entitled to be notified that the affidavit exists and is entitled to a copy of the affidavit upon request. If the evidence by affidavit is received in advance of the ARB hearing, the chief appraiser, with the property owner's consent, may review the affidavit and evidence as part of an informal protest process. The ARB may not review any evidence by affidavit before the protest is heard. The property owner may argue or comment on the evidence produced by either party, but no additional documentary evidence may be submitted by either the property owner or the appraisal district once the hearing begins. Rebuttal testimony by either party may be allowed, within the time constraints for the hearing as set by the ARB.

### *DURATION OF TELEPHONE CONFERENCE HEARING*

The length of the conference call hearing shall be consistent with the length of an in-person protest hearing. Generally, the in-person protest hearing should take about twenty minutes. However, the ARB Chairman may allow additional time to ensure all pertinent evidence is heard by the ARB.

### *HEARING*

The telephone conference shall be conducted as any ARB hearing would be conducted; preliminary matters will be read into the record, and the property owner will be allowed to present evidence, followed by the appraisal district presenting evidence. Rebuttal evidence will be allowed from both sides.

Property owners will be solely responsible for providing adequate telephone reception, and any sort of noise distraction should be avoided, such as pets, other people talking, radio and television playing, etc. The use of cell phones is strongly discouraged. Persistent bad reception, dropped calls, cutting out, background noise, and other disruptions rendering the property owners' presentation inaudible shall be grounds for the chairman to terminate the telephone conference and determine the case by affidavit.

Information received during the audible portion of the telephone conference shall be considered admissible. If the property owner is disconnected during the hearing, it will be the property owner's responsibility to call back unless the disconnection was caused by the ARB or the appraisal district.

Property owners may call witnesses, but the property owners will be solely responsible for providing audible telephone access to the witnesses. Witnesses will not be allowed to address any evidence that was not submitted in the written affidavit. Property owners may address any issues raised by the affidavit or by the appraisal district's evidence.

## HEARING PROCEDURES

### GENERAL INFORMATION

Pursuant to Section 41.66, Texas Property Tax Code, the Shelby County Appraisal Review Board hereby establishes the following procedures for hearings. Hearing procedures shall be informal to the greatest extent possible. If a question of procedure arises which these rules do not adequately address, the Board shall review the relevant provisions of the Property Tax Code and, if necessary, seek advice of legal counsel.

Each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matter subject to the hearing. A property owner who is entitled to appear at a hearing may appear himself or by his agent as provided by Section 1.111, Texas Property Tax Code. A taxing unit entitled to protest may appear by a designated agent.

Pursuant to the terms of Article 6252-17, V.A.T.S., hearings are open to the public, except when an executive session is permitted to consider pending or contemplated litigation, or any other matter as provided by law. Video taping of a hearing is allowed; however, some restrictions may apply. Please contact the Appraisal District no later than three days prior to the hearing for more information. A copy of these Hearing Procedures shall be posted in a prominent place in the room in which the hearing is held. An employee of the Appraisal District will be designated as "Secretary to the Appraisal Review Board." This person, in accordance with Chapter 41 and other applicable sections of the Property Tax Code, shall schedule hearings and notify the protesting party of the hearing date.

### PROPERTY OWNER PROTESTS

Upon receipt of a written notice of protest, the Appraisal Review Board shall assign a case number to the protest and schedule the protest for a hearing. The hearing notice shall be delivered not later than the fifteenth (15th) day before the date scheduled for the hearing, unless the property owner agrees to a shorter period of notice. In that case, a property owner must file a written waiver of fifteen days notice with the Board no later than the time scheduled for the hearing.

At least fourteen (14) days before the hearing scheduled on the protest, the chief appraiser shall deliver a copy of *Taxpayer's Rights, Remedies and Responsibilities*, published by the Texas Comptroller of Public Accounts, and a copy of these hearing procedures to the person initiating the protest. The chief appraiser shall also inform the protesting party that he or she may inspect and may obtain a copy of the data, schedules, formulas, and other information that will be introduced by the chief appraiser at the hearing.

The charge for the copies should reflect legal copying charges, not to exceed fifteen dollars (\$15.00) for each residence and twenty-five dollars (\$25.00) for other types of property. Failure to comply can result in a one-time postponement of the hearing if the protesting party requests additional time to prepare and establishes that the chief appraiser did not deliver the information. Requested information that was not made available in a timely fashion cannot be used as evidence in the hearing.

Either the protesting party or the chief appraiser may request that a scheduled hearing be postponed. A request for postponement must be in writing and, if possible, shall be filed with the board at least two business days prior to the scheduled hearing, but in no event later than the date and time scheduled for the hearing. The board shall grant the postponement if the requesting party shows good cause for the postponement, or if the protesting party proves that the chief appraiser has failed to timely deliver the documents to which the property owner is entitled as described in II (A) above.

Between the time a protest is filed and the time it is determined by the board, pursuant to **Section 41.66(f), Texas Property Tax Code**, no person shall communicate with any member of the Appraisal Review Board concerning the evidence, argument, facts, merits, or other matters related to the protest, or the property that is the subject of the protest, except during the hearing on the protest or during another hearing on a protest before the board at which the property is compared to other property or used in a sample of properties. At the beginning of each hearing, each member of the Appraisal Review Board shall execute an affidavit stating they have not communicated with any person in violation of this provision. If a member of the Appraisal Review Board cannot sign such affidavit, the member shall not participate in the protest, and shall excuse himself from further hearings of that protest. If a quorum of members remains after the ineligible member removes himself, this member will not be replaced, and the protest will be heard and determined. If a majority of the members have communicated with anyone concerning the protest, the hearing must be postponed allowing temporary members to be appointed by the Appraisal District Board of Directors for the limited purpose of hearing the protest.

The chairperson shall preside over all hearings of the board. In the absence of the chairperson, the vice-chairperson shall preside over all hearings of the board. In absence of both the chairperson and the vice-chairperson, the secretary shall preside over the

hearings. The presiding board member may vote or make motions in any matter before the board.

The secretary to the board shall schedule several protests per day. The protests shall be heard in the order scheduled. If the protesting party is late, the protest shall be moved to the end of the schedule or another time as determined by the presiding officer. Evening and/or weekend hearings will be made available to the taxpayer upon request. The board shall make a record of the hearing in compliance with the Texas Open Meetings Act, Article 6252-17, V.A.T.S. The chief appraiser or his representative shall appear at each protest hearing on behalf of the appraisal district.

*The order of the proceedings shall be as follows:*

1. The owner/agent will be allowed approximately fifteen (15) minutes to present witnesses, documentary evidence, and related arguments. The Appraisal Review Board may cross-examine the parties or witnesses for a reasonable time as determined by the presiding officer.
2. The appraisal district will be entitled to present witnesses, documentary evidence, and related arguments for approximately fifteen (15) minutes. The owner/agent and the Appraisal Review Board may cross-examine these witnesses or parties for a reasonable time as determined by the presiding officer.
3. All cross-examination shall be informal with all questions concerning procedure determined by the presiding officer. Questions shall be limited to matters relevant to the protest.
4. Any remaining time may be used for rebuttal, questions by the Appraisal Review Board, or closing arguments.
5. At the conclusion of the hearing, the board may make its final determination by vote recorded by the secretary or may take the matter under advisement for further deliberation, or to allow receipt of additional evidence. If the board shall determine that a postponement of the hearing is required for any reason, the board shall schedule a hearing at a later date and inform the parties of the rescheduled hearing date and time, which shall be not less than five (5) nor more than fifteen (15) days after the original hearing date unless all parties agree otherwise. If the protest is taken under advisement, each further deliberation by the board shall occur in an open meeting of the board. Upon conclusion of a hearing, the board shall not accept any additional evidence or arguments from any party. Upon making its final determination, the board shall deliver an order determining protest to the owner/agent by certified mail return receipt requested, as soon as possible.

*Hearing records shall contain the following:*

- Names of the board members present and the date of the hearing;
- Name and resident address of the protesting party and agent, if any;
- Description of the subject property;
- Summary of the nature of the protest;
- Summary of the chief appraiser's testimony;
- Any documentary or physical evidence admitted for consideration by the board;
- The name and resident address of any witness;
- A description of any formal motions made and any ruling thereon;
- The final order of the board or a reference to the written order number;
- The date of any final order and the date upon which the order is deposited in the mail.

## **TAXING UNIT CHALLENGES**

A challenge by a taxing unit shall be heard in the same manner and pursuant to the same rules of procedure as a protest from a property owner, with the following exceptions:

- The secretary of the board shall deliver to the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing written notice of the date, time, and place fixed for the hearing, not later than the tenth (10th) day before the date of the hearing.
- If a challenge petition concerns fewer than five properties, the owners of those properties shall be allowed to appear and offer evidence and argument at the hearing on the challenge petition.
- The provisions of Section 41.66(f) and (g) do not apply to hearings on challenge petitions.
- Documents and records are not inadmissible before the Appraisal Review Board merely because the offering party failed to produce them for inspection to the opposing party prior to the hearing.

## **STANDARDS OF DOCUMENTATION FOR HEARINGS**

The goal of the Appraisal Review Board is to determine questions of value based on full, accurate and complete disclosure of all pertinent facts affecting the market value of each property.

To assure that each property owner/agent is treated fairly in the hearing process, the ARB has adopted the following standards of documentation:

- I. Persons offering evidence at an informal hearing must sign an affirmation form prior to onset of the proceedings. This form attests to the presenter's authority to represent the owner and affirms that all evidence submitted will be true and correct

If the issues are resolved in the informal hearing process the owner/agent, along with the chief appraiser or their designated personnel, shall sign an agreement statement. If the issues cannot be resolved in an informal hearing, the ARB reserves the option of holding a formal hearing that same day. Accordingly, the owner/agent should be prepared to appear immediately before the ARB. Persons appearing at formal hearing are required to be sworn in by the chairman and testify under oath.

- II. It is expected that the testimony and evidence offered by the owner/agent in the informal and formal hearing alike will be a true and complete disclosure of all facts that could reasonably be expected to have a bearing on the property's market value. Thus, all persons appearing for a hearing will be expected to be fully knowledgeable of the facts.
- III. If the presenter is unwilling, unprepared or otherwise fails to submit documentation requested by the ARB, the ARB reserves the right to consider the subpoena of the necessary documentation before they finalize their deliberations.
- IV. Copies of all information submitted by owners or consultants pertinent to their hearing (formal or informal) must be retained in the ARB hearing file. This specifically includes maps, photographs, the complete text of all appraisals performed by others, rent rolls, contracts of sale, charts, diagrams, surveys, closing statements, plans and drawings, charts, etc. In the case of business personal property, the following types of information must be retained: copies of books and records, financial statements, IRS returns, CPA statements, independent appraisals, etc.
- V. Information to be offered in evidence should be copied in advance at the owner's/agent's expense. Four copies are required at formal hearings (three for the ARB panel and one for the SCAD representative). In the case of lengthy documents, the property owner/agent may submit one copy along with four copies of an executive summary of the document's content.
- VI. If third party evidence is to be offered in evidence, the document(s) must contain a statement of authenticity or be accompanied by an attached affidavit of authenticity signed by the preparer.
  - A. If brokers are employed to lease or manage a property, they will execute certified statements as to current and historical occupancy, face rental rates, and actual effective rental rates. Effective market rental rates will also be included. All rental rates should be substantiated by examples of actual leases executed or pending.

- B. All sales or current and prior offerings of the subject property will be fully documented. Such documentation should include a signed copy of the listing form and offering, or the closing statement and a complete copy of the signed sales contract.
  - C. Comparable sales will all be verified and will be given greater weight if accompanied by actual photographs and detailed information concerning location, year of construction, land area, building area, contract date, sales price, financing terms, etc.
  - D. Third part certification of costs of repairs or cost of construction should be submitted, if applicable. If an architect is involved, the construction costs expended as of February 1 of each year in question will be documented by submitting a properly executed and sealed copy of the AIA "Application and Certification for Payment" document G702 complete with detail or equivalent.
- VII. The attached chart outlines the Standards of Documentation for value hearing on real property.
- VIII. The items listed below are examples of the types of documentary evidence that should be presented in business personal property value hearings:
- A. CPA statements
  - B. Certified balance sheets
  - C. IRS returns
  - D. Actual books and records showing acquisitions by year of purchase
  - E. Receipts, invoices or leases pertaining to the property in question
  - F. A statement of general accounting policy and procedures, especially concerning the capitalization policy and the basis of depreciation. The statement should also address inventory methods and if physical inventory equals book inventory.

The above specified documents must contain a statement of authenticity or have an affidavit of authenticity attached. The statement or affidavit must have the signer's name and title clearly visible and be properly signed by either the owner, a CPA, or an authorized officer of the company or corporation.

- IX. Evidence in exemption and productivity value hearings should clearly reflect the use of the property on January 1 of the subject tax year.
- A. Organizations claiming total exemption should submit certified copies of their charter and by-laws, and evidence that their primary purpose is to perform one or more of the charitable functions outlined in Chapter 11 of the Texas Tax Code.
  - B. Property owners seeking to prove eligibility for agricultural or timber valuation should provide copies of leases; timber management agreements; records reflecting the sale of livestock, crops, or timber; evidence of improvements to the land and of qualifying agricultural or timber use in at least five of the prior seven years. Since certain foreign owners are not legally eligible for 1-d-1 productivity valuation, owners of land held by a trustee should be prepared to prove the actual ownership.

**STANDARDS OF DOCUMENTATION**  
REAL ESTATE

	<u>TYPE OF DATA</u>	<u>ADDITIONAL DATA (MAY BE REQUIRED)</u>														
Sale of Subject	Closing Statement - signed and dated, includes a legal description of the property being transferred.	Copy of sales contract.														
Income Approach	Previous year rent roll and income statement (typically 3 years of data should be provided).	Additional year's data														
	Documentation of lease offering rates and lease concessions as of 1-1-89 from leasing agent.	Documented explanation of any line items														
Cost Approach	Construction contract(s) - Signed and dated, includes a detailed description of the work to be performed.	Financial records														
	Certified A.I.A. documents, with detail.	Subcontracts														
	Documentation must reflect all hard and soft costs.	I.R.S. records														
Market Approach	Independent fee appraisals - Complete copy of the appraisal report															
	Confirmed sales with photographs of comparable properties. The details would include:	Detailed income and expense data														
	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">1. Property description</td> <td style="width: 50%;">8. Date of contract</td> </tr> <tr> <td>2. Location</td> <td>9. Sales Price</td> </tr> <tr> <td>3. Land area</td> <td>10. Financing terms</td> </tr> <tr> <td>4. Building area</td> <td>11. Basis of sale (actual or Pro forma Income)</td> </tr> <tr> <td>5. Year built</td> <td>12. Source</td> </tr> <tr> <td>6. Grantor</td> <td>13. Confirmed by (name).</td> </tr> <tr> <td>7. Grantee</td> <td></td> </tr> </table>	1. Property description	8. Date of contract	2. Location	9. Sales Price	3. Land area	10. Financing terms	4. Building area	11. Basis of sale (actual or Pro forma Income)	5. Year built	12. Source	6. Grantor	13. Confirmed by (name).	7. Grantee		
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